

apply when they enter ATFI as a retriever.

[57 FR 36271, Aug. 12, 1992, as amended at 58 FR 30715, May 27, 1993; 60 FR 56123, Nov. 7, 1995]

§ 514.21 User charges.

In accordance with 5 U.S.C. 552 and 31 U.S.C. 9701, the user charges in this section are established for services under this part. Unless otherwise provided in this part, checks, drafts or money orders shall be remitted and made payable to "Federal Maritime Commission (OBFM)," 800 North Capitol Street, NW., Washington, DC 20573. Unless otherwise specified, overdue payments will be charged interest in accordance with the rate established by the Department of the Treasury for each 30-day period or portion thereof that the payment is overdue. In addition to any other remedy and penalty provided by law and regulation, if payment is overdue for 90 days, ATFI services will be denied:

(a) *Application for exemption* (See §§ 514.3 and 514.8(a)): As provided in § 502.69 of this chapter.

(b) *User manual* (of ATFI "Guides" -- § 514.8(b)).

(1) *In diskette form*: \$39 for diskette(s) containing all user guides in Word-Perfect 5.0 format.

(2) *Printed, in paper form* (Batch Filing Guide is free of charge and is furnished separately):

(i) *Package A*: Fundamentals Guide and System Handbook (125 pages) are made available jointly and are a prerequisite for use of either of the packages in paragraphs (b)(2)(ii) or (b)(2)(iii) of this section: \$49.00.

(ii) *Package B*: Tariff Retrieval Guide: \$49.00.

(iii) *Package C*: Tariff Filing Guide: \$59.00.

(iv) *Package D*: All Guides listed in paragraphs (b)(2)(i) through (b)(2)(iii) of this section: \$99.00.

(3) *Ordering manuals*. Requests for user manual package(s) should be in writing and addressed to "BTCL Manuals," Federal Maritime Commission, Washington, DC 20573. A check for the appropriate amount should be made to the "Federal Maritime Commission."

(4) *Updates*. Updates to the user manual in any format will not be furnished

automatically and are not included in the user charge. The Commission will publicize notice of upgrades when they occur.

(c) *Registration for user (filer and/or retriever ID and password* (see exhibit 1 to this part and §§ 514.4(d), 514.8(f) and 514.20)): \$174 for initial registration for firm and one individual; \$148 for additions and changes.

(d) *Certification by Commission Secretary of tariff data* (§ 514.8(k)(2)): As provided in § 503.43(c) of this chapter.

(e) *Certification of batch filing capability (by appointment through the Office of Information Resources Management)* (§ 514.8(1)).

(1) *User charge*: \$496 per certification submission (covers all types of tariffs for which the applicant desires to be certified as well as recertification required by substantial changes to the ATFI system).

(2) *Certification submissions*:

(i) May be made in one or more scheduled certification periods;

(ii) May include transaction sets for one of each different tariff type listed in Appendix A (# 14) of the ATFI Batch Filing Guide; and

(iii) May be made to the ATFI central site computer via on-line batch or to the ATFI Computer Center via bulk batch (9-track tape), or both.

(f) *Application for special permission* (§ 514.18): \$179.

(g) *Remote electronic retrieval* (§ 514.20(c)(3)). The fee for remote electronic access to ATFI electronic data is 33 cents for each minute of remote computer access directly to the ATFI database by any individual.

(h) *Printing* (screen prints) of downloaded tariff matter at Commission's Tariff Control Center (§ 514.20(c)(4)): as provided in part 503, subpart E.

(i) *Tariff filing fee*. The fee for tariff filing shall be 20 cents per filing object; the fee for filing service contract essential terms shall be \$1.63 per filing set.

(j) *Daily Subscriber Data* (§ 514.20(d)).

(1) Persons requesting download of daily updates must pay 33 cents per minute as provided by § 514.21(g).

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(2) Persons requesting daily updates on tape must supply the tapes and return postage, and pay \$43 per daily update.

(k) *Miscellaneous tapes.* The fee for tape data, other than the ATFI database described in paragraph (j) of this section, shall be \$46 for the initial tape plus \$25 for each additional tape required.

(l) *Access to ATFI data.* Official ATFI tariff data may be directly accessed by computer by:

(i) *Retrievers.* Any person may, with a proper retrieval USERID and password, enter the official ATFI database to obtain computer access of tariff matter, as provided in this part, but may download ATFI data only through the "Print Screen" function, which prints one screen at a time on paper. The user fee for this computer access is 33 cents a minute, for which the user will be billed at the end of each month.

(2) *Filers.* Any person with a proper filer USERID and password may enter the official ATFI database to obtain computer access of tariff matter as provided in this part, but may download ATFI data only through the "Print Screen" function, which prints one screen at a time on paper, and the filer ATFI-mail-file-transfer function, which prints the contents of the filer's ATFI mail on paper.

(m) *Regulated Persons Index.* The Regulated Persons Index is a database containing the names, addresses, phone/fax numbers and bonding information, where applicable, of Commission-regulated entities. The database may be purchased for \$84 by contacting BTCL, Federal Maritime Commission, Washington, DC 20573. Contact information is listed on the Commission's website at www.fmc.gov.

[57 FR 36271, Aug. 12, 1992, as amended at 58 FR 30, Jan. 4, 1993; 58 FR 30715, May 27, 1993; 59 FR 59171, Nov. 16, 1994; 59 FR 63908, Dec. 12, 1994; 60 FR 56124, Nov. 7, 1995; 63 FR 50536, Sept. 22, 1998]

EFFECTIVE DATE NOTE: At 63 FR 50536, Sept. 22, 1998, in § 514.21, paragraphs (b)(1), (b)(2)(i) through (iv), (c), (e)(1), (f), (g), (i), (j)(1) and (k) were revised; paragraph (l) was removed; paragraph (m) was revised and redesignated paragraph (l); and new paragraph (m) was added, effective Nov. 2, 1998. For the convenience of the user, the superseded text is set forth as follows:

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(b) *User manual* (of ATFI "Guides" -- § 514.8(b)).

(1) *In diskette form:* \$15 for diskette(s) containing all user guides in WordPerfect 5.0 format.

(2) * * *

(i) *Package A:* Fundamentals Guide and System Handbook (125 pages) are made available jointly and are a prerequisite for use of either of the packages in paragraphs (b)(2)(ii) or (b)(2)(iii): \$18.00.

(ii) *Package B:* Tariff Retrieval Guide: \$15.00.

(iii) *Package C:* Tariff Filing Guide: \$27.00.

(iv) *Package D:* All Guides listed in paragraphs (b)(2)(i) through (b)(2)(iii): \$55.00.

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(c) *Registration for user (filer and/or retriever ID and password* (see exhibit 1 to this part and §§ 514.4(d), 514.8(f) and 514.20)): \$162 for initial registration for firm and one individual; \$136 for additions and changes.

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(e) *Certification of batch filing capability (by appointment through the Bureau of Administration)* (§ 514.8(l)).

(1) *User charge:* \$359 per certification submission (covers all types of tariffs for which the applicant desires to be certified as well as recertification required by substantial changes to the ATFI system).

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(f) *Application for special permission* (§ 514.18): \$146.

(g) *Remote electronic retrieval* (§ 514.20(c)(3)). The fees for remote electronic access to ATFI electronic data are:

(1) A fee of 46 cents for each minute of remote computer access directly to the ATFI database by any individual; and

(2) Through September 30, 1995, for a person operating or maintaining information in a database that has multiple tariff or service contract information, obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(h) * * *

(i) *Tariff filing fee.* The fee for tariff filing in either the foreign or domestic offshore commerce of the United States shall be 17 cents per filing object; the fee for filing service contract essential terms shall be \$1.65 per filing set.

(j) *Daily Subscriber Data* (§ 514.20(d)). (1) Persons requesting download of daily updates

must pay 46 cents per minute as provided by § 514.21(g)(1).

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(k) *Miscellaneous tapes.* The fee for tape data, other than the ATFI database described in paragraph (j) of this section, shall be \$61 for the initial tape plus \$25 for each additional tape required.

(l) *Exceptions.*

(1) Marine terminal tariff data are not subject to a secondary user charge for access under paragraphs (g)(2) or (m)(2) of this section.

(2) Subject to the secondary access restrictions and user fees under paragraph (m)(2) of this section:

(i) Filers may, without the necessity of paying a user fee under this section, access only those tariffs or parts of tariffs for which they have an authorized filer USERID and password.

(ii) A Federal agency is exempt from paying a fee under paragraphs (g) and (j) of this section.

(m) *Enforcement of section 502 of Public Law 102-582 (until September 30, 1995).* Through September 30, 1995, and in order to comply with section 502 of Public Law 102-582 (46 U.S.C. 1707a), official ATFI tariff data may be accessed by computer only as described in this paragraph:

(1) *Direct access.* (i) *Retrievers.* Any person may, with a proper retrieval USERID and password, enter the official ATFI database to obtain computer access of tariff matter, as provided in this part, but may download ATFI data only through the "Print Screen" function, which prints one screen at a time on paper. The user fee for this computer access is 46 cents a minute, for which the user will be billed at the end of each month.

(ii) *Filers.* Any person with a proper filer USERID and password may enter the official ATFI database to obtain computer access of tariff matter as provided in this part, but may download ATFI data only through the "Print Screen" function, which prints one screen at a time on paper, and the filer ATFI-mail-file-transfer function, which prints the contents of the filer's ATFI mail on paper.

(2) *Indirect access: purchase and use of database tapes.* (i)(A) Any person purchasing or subscribing to, or otherwise acquiring, ATFI database tapes under § 514.20(d) and this section shall first submit for approval to BTCL of the FMC a description and model of the accounting or charging system it intends to use to comply with this paragraph so that the FMC can determine whether such system is adequate. There shall be included in the application for approval detailed descriptions of:

(I) The methodology for, *inter alia*, monitoring, collecting, reporting and payment to

the FMC of the secondary access fee for all indirect access of data, as prescribed by section 502 of Public Law 102-582 and this part;

(2) Features to protect the security of tariff data;

(3) How the applicant intends to categorize and handle "mixed" data, i.e., data which is, as well as data which is not, subject to the user fee.

(4) All the records which will be necessary to perform the functions set forth in paragraphs (m)(2)(i)(A)(1) through (m)(2)(i)(A)(3) of this section, to permit adequate evaluation of the reports submitted and computations used, and sufficient to reflect properly the charges to be collected and paid under this paragraph, including, specifically, all records of access granted, fees charged and collected for each secondary retriever, and remittances to FMC. These records, which must be retained for possible audit under paragraph (m)(2)(ii) of this section, shall include books, records, documents, and other evidence and accounting procedures and practices, regardless of form, e.g., machine readable media such as disk tape, or type, e.g., data bases, applications software, data base management software, utilities.

(B) Those parts of the charging system which the applicant wishes not to be disclosed to the public because they are considered business sensitive, e.g., "trade secrets," shall be kept completely separate from the balance of the application, along with a full justification of their non-disclosability. The Commission will consider any request for these records under the Freedom of Information Act.

(C) The FMC will evaluate the charging system within sixty (60) calendar days after submission and approval will be assumed unless the FMC otherwise formally notifies the applicant within the sixty-day period.

(D) The database tapes of ATFI may not be made available to any person until its charging system is approved by FMC.

(ii)(A) Every person who is authorized to purchase ATFI database tapes under paragraph (m)(2)(i) of this section shall maintain those records described in paragraph (m)(2)(i)(A)(4) of this section until October 1, 1998.

(B) The FMC or its representatives shall have the right to examine and audit all records described in paragraphs (m)(2)(i)(A)(4) and (m)(2)(ii)(A) of this section, for the purpose of evaluating the accuracy and completeness of the reports required by this paragraph. The right of examination shall extend to all documents and other data, regardless of form, necessary to permit adequate evaluation of the reports submitted, along with the computations used.

(iii)(A) Any person having an ATFI database tape may access by computer the data contained therein for its own use, and/or

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may permit others to access by computer the data, but only if it records all such access and pays to the FMC the 46-cents-a-minute user charges for all computer access to such data, as prescribed in paragraph (g)(1)(ii) of this section under the approved charging system described in paragraph (m)(2)(i) of this section.

(B) The access of data on paper, e.g., that which has been printed or written on the paper, is not subject to the indirect (secondary) user fee under this paragraph, even if subsequently converted into computer, e.g., database, format.

(iv) No person having an ATFI database tape may allow downloading of the data contained therein other than by an effectively-designed and functioning "Print-Screen" function, which allows printing of one screen at a time onto paper.

(v) Billing and Payment.

(A) Within ten (10) calendar days after the end of each month, each database-tape purchaser under paragraph (m)(2)(i) of this section shall transmit to the Office of Budget and Financial Management, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573-0001, a report of all computer access to ATFI data listed by user, date and minutes accessed. Each such purchaser shall simultaneously transmit

payment to "the Federal Maritime Commission" for such usage at the rate of 46 cents per minute.

(B) If payment is not made when due, the database purchaser under paragraph (m)(2)(v)(A) of this section may be assessed interest, penalties and administrative costs associated with collection of late payments in accordance with the Federal Claims Collection Standards, 4 CFR 102.13. The FMC intends to utilize the provisions of the Debt Collection Act, 5 U.S.C. 5514, including disclosure to consumer reporting agencies, to ensure prompt payment.

(C) The FMC reserves the right to suspend or terminate furnishing ATFI data tapes to any person if payment is not timely made.

§ 514.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (46 CFR part 514 and Exhibit 1 to part 514) have been approved by the Office of Management and Budget [OMB] in accordance with 44 U.S.C. chapter 35 and have been assigned OMB control number 3072-0055.